Supreme Court, U.S.
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CASE NO. 95-460

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1995

JOHN C. HUME, PRO SE - PETITIONER

vs.

HAROLD STERLING, INDIVIDUALLY AND IN HIS CAPACITY AS SHELBY COUNTY ASSESSOR OF PROPERTY, AND BOB PATTERSON, INDIVIDUALLY AND IN HIS CAPACITY AS SHELBY COUNTY TRUSTEE, AND WILLIAM N. MORRIS, JR., INDIVIDUALLY AND IN HIS CAPACITY AS SHELBY COUNTY MAYOR.

- RESPONDENTS

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

REPLY TO BRIEF IN OPPOSITION TO
PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF THE CASE

The property appraisal for tax purposes in Shelby County in Tennessee is arbitrary and unfair. After spending several years going through appeals in Tennessee all of the way through the State of Tennessee Assessment Appeals Commission it was apparent that more appeals in Tennessee would not be a "plain, speedy, and efficient remedy". I claim my constitutional right to go to the federal court. State Ex Rel. Marshall v. District Court Dec.T.74,50 Mont.,292 states:

> A remedy is speedy when, having in mind the subject matter involved, it can be pursued with expedition and without essential detriment to the party aggrieved: and it is neither speedy nor adequate if its slowness is likely to produce immediate injury or mischief.

The property in Shelby County owned by the Petitioner has been speculatively appraised at a high rate based on the selling price of other property. Tenn.Code Annotated 67-5-601 states "The value of

all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values". The last sale price of a piece of property is the only true amount for tax purposes until it is sold again by a willing seller to a willing buyer. When you buy a property, you should be able to plan to pay taxes on the assessed percent of that amount. The rate could then be adjusted as necessary. All residential and commercial property should be appraised on that last sale price. Exceptions should not be made for certain properties.

The Respondents state that Petitioner has failed to show the existence of any special and important reasons why my Petition for Writ of Certiorari should be granted (Brief in Opposition, Pg.8). My

reasons are clear. After three years of appeals, paying my taxes on exorbitant appraisals, and the costs of every court to which you may appeal, costs money at every turn and takes precious time. The system seems to be built to throughly discourage private property owners from securing justice from a federal court even when a constitutional question on the legality of how a state is conducting certain practices comes into question.

28 U.S.C. § 1983 states:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in action at law, suit in equity, or other proper proceeding for redress.

"Obviously 1983 cut a broad swath. By its terms it gave a federal cause of

action to prisoners, taxpayers, or anyone else who was able to prove that his constitutional or federal rights had been denied by any State. In addition, the statutes made no mention of any requirement that state remedies be exhausted before resort to the federal courts could be had under 28 U.S.C. § 1343." Fair Assessment in Real Estate Assn. v. McNary 454 U.S. 100 (1981) 103,104.

"It is immaterial whether [the state official's] conduct is legal or illegal as a matter of state law. Such claims are entitled to be adjudicated in the federal courts." McNeese v. Board of Education, 373 U.S. 668 (1963) 674.

In Monroe v. Pape, 365 U.S. 167 (1961) it proves that comity does not apply where § 1983 is involved, and that a litigant challenging the constitutionality of any state action may proceed directly to federal court.

Surely no judicial power to fashion novel doctrine concerning the jurisdiction of federal courts is to be found in the Constitution itself, which provides that the judicial power "shall be vested in one supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish". U.S. Const., Art.111, § 1.

"But there is absolutely no support in either the cases of this Court, or in Congress' action, for total abdication of federal power in this field. It is thus entirely clear that as a jurisdictional matter, the federal courts have jurisdiction over claims seeking monetary relief arising from unconstitutional state taxation." Fair Assessment in Real Estate Assn. v. McNary 454 U.S. 100 (1981) 133.

Another obvious proof that the appraisals in Shelby County are arbitrary is that there is great disparity in land value assigned. On my two pieces of property, a 50X200 sq. ft. lot is valued at $15,300.00 and a 61.5X200 sq. ft. lot is valued at $8,000.00.

The taxpayers are told to show the tax assessor "comparables" of recently sold property in their vicinity. The "intrinsic" value of properties would be totally speculative because some property has been totally renovated, others have not.

The records at the tax assessor's office show that the appraisal on one of my two pieces of property is scheduled to be increased in 1996 from $41,300.00 to $79,500.00. This is a 92.5% increase in five years and totally speculative. I am being taxed out of my home. Nordlinger v. Hahn U.S. 112 S.Ct. 2326,10,

states "In short, the State may decide that it is worse to have owned and lost, than never to have owned at all."

A ruling in my favor would not be disruptive to the state collection of taxes. It would just change an arbitrary tax appraisal system to be fair and equitable.

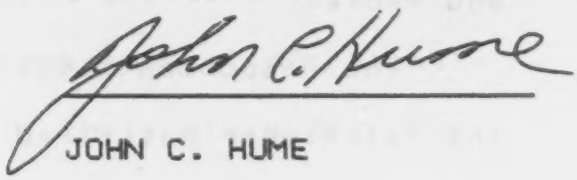
The Respondents stated the fact that the Petitioner has filed an appeal in the United States Court of Appeals for the Sixth Circuit, Case No. 95-5743,---the awarding of attorneys' fees to Respondents. This court does have the power to rule that this claim is not frivolous; unreasonable and without foundation, it is a legitimate claim. I would like for this court to rule this. In that case, attorneys' fees would not be awarded.

CONCLUSION

The Supreme Court does have the power to exercise its supervisory authority here. Petitioner respectfully requests that my Petition for Writ of Certiorari be considered with due respect.

Dated 12-5-95

Respectfully submitted,



JOHN C. HUME

PETITIONER